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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/963,471	09/27/2001	Hiroaki Tomofuji	1081.1130	9539
21171	7590	05/03/2005	EXAMINER	
STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			PASCAL, LESLIE C	
			ART UNIT	PAPER NUMBER
			2633	

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)	
09/963,471	TOMOFUJI ET AL.	
Examiner	Art Unit	
Leslie Pascal	2633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 4-13, 15 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Claims 4-13 and 15-16 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3-7-2005.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Taga et al (JP 11-204866-please note that US6377375 has an English translation).

Taga et al teach a branching filter (demultiplexer 2, shown in detail in figure 3), which separates the signals into groups (bands), a functional circuit that functionally processes the wavelength groups on a group-by-group basis (3 and/or 5) and a multiplexer (6). In regard to claim 2, the amplifier makes level adjustments and the dispersion compensator provides the compensation.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taga et al (JP 11-204866) as applied to claims 1-2 above, and further in view of Cao (6263126).

Although Taga et al do not teach specifics about the bands that are separated, Cao teaches that it is well known to use a first filter to separate the signals into odd and

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even bands (fig 5a, stage 1) and then to use a second filter (stage 2...) in order to separate the channel further. It would have been obvious to use filters which separate into separate odd/even bands as taught by Cao as the filter (figure 3 of Taga) in order to provide a larger separation between channels and avoid noise of adjacent channels

since Cao teaches that in the prior art adjacent channels similar to Taga were used. and ~~the~~ using

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Taga et al (JP 11-204866) as applied to claims 1-2 above, and further in view of Jp11-88263. larger spacing (odd/even) between channels avoids noise.

Although Taga et al do not specifically teach leaving spaces between wavelength groups, Jp11-88263 teaches leaving spaces between wavelength groups (see figures 7 and 8). It would have been obvious to leave spaces between channel groups in order to avoid noise of leakage between channels.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leslie Pascal whose telephone number is 571-272-3032. The examiner can normally be reached on Monday, Friday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on 571-272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Leslie Pascal
Primary Examiner
Art Unit 2633